



Brussels, 29th of May

PSOs summary position paper on EC RP3 proposals on performance and charging regulation

Following the publication of the draft Performance and Charging regulation by the European Commission, the PSOs¹ as collective representatives of Professional and Social issues within ATM would like to place on record our position with regards to the aforementioned regulation. This position paper sets out our overall views and some key issues. A more detailed breakdown on our position with respect to specific draft articles in the proposal is also available.

The ATM sector has circa 60,000 people working within it, every day, to provide one of the safest and highest capacity systems in the world. As we have seen in RP2, continued attack on cost has had unintended consequences, in that investment has dropped both in technology and staffing resulting in the capacity crunch we are seeing today. The staff should be seen as an asset, to be championed, often performing complex, safety critical and high demanding tasks. The inference and rhetoric that we see all too often is that they are an overly expensive accounting line, that must be reduced. This persistent undercurrent will only continue to detriment the overall performance of the system and impair the existing infrastructure.

Whilst we recognise that the Performance and Charging regulations will need to be updated from time to time, the proposal as it currently is drafted fails to achieve the aims of the original concept of the revision of the existing regulations.

The Performance Scheme has for too long been too focused on cost, to the detriment of the other Key Performance Areas, and the effects of this have become obvious with significant staffing and capacity issues throughout the European Union. We don't believe that the new proposals will in any way alleviate this, and indeed some of the proposals surrounding risk sharing are likely to increase costs, as ANSPs have to factor in greater cost of capital given the increase in financial risk they will be exposed to. We welcome a system that is properly resourced and provided with the appropriate technology, which will deliver the required capacity, whilst maintaining the highest standards of safety.

The timescales for the drafting and adoption of this regulation, when taken into consideration with the required target setting process and the looming commencement of RP3 seem extremely ambitious. It is very unclear how this will all be achieved within the remaining time. There are now significant risks that the proposals will be rushed, without the proper time for consultation and refinement, resulting in the increased chance of a regulation which may not

¹ The Professional Staff Associations are ATCEUC, ETF, IFAIMA, IFATCA, and IFATSEA, together representing ATM workers and professionals across Europe.



be fit for purpose, and with which we will all be stuck with for a further 5 years. The proposed draft may even hamper the development of the system and actually increase costs. It seems that the only valid option that remains would be of continuing with the existing regulations and in slower time continue to work on a more considered regulation for RP4, which would be compatible with any future review of SES.

Imbalance in stakeholder group input

The proposals have an asymmetric and completely imbalanced approach to stakeholder engagement, with a questionable role given to airspace users as a pseudo co signatory to elements of the performance plans. If a key principle of SES is the separation of regulation from service provision, then it must also hold true that the consumers cannot be regulators. It would appear than an unequal degree of priority has been given to certain stakeholder groups views, views which are based on bias studies only focused on the particular interests of this group.

Complexity and micro management

One of the stated aims of the revision was to simplify the scheme. We believe that the draft text fails to achieve this, and again seeks to manage the scheme with prescriptive proposals that introduce complexity. Examples include the methodology of the incentive mechanisms, cost sharing and traffic risk sharing. The Performance Scheme should be focused on outputs, rather than a quasi-hybrid system of targeting output, but then dictating the inputs to achieve those outputs. Couple that with a complete disconnect between ANSP and airspace user business planning cycles, and a perfect storm develops, leaving ANSPs with no room to manoeuvre.

Incentive Scheme

The proposals in the draft regulation on the incentive scheme are completely unacceptable. It is the stated position of the PSOs that incentive schemes are not desirable, however the incentive scheme proposed is unbalanced, and places an objectionable amount of influence in the hands of one group of stakeholders. Given the principle of regulation separated from service provision, it is completely unacceptable that the airspace users as the customer, regulate the provider as is basically the inference in the proposed Article 12 5(a). Furthermore, the concept that should the airspace users fail to agree, a default penalty only scheme apply is simply absurd. This incentive scheme would only be a punitive scheme without any positive effect on the building of the ATM system for the future. The NSAs should be given the freedom to design a symmetrical and locally appropriate incentive scheme given the particular circumstances in that Member State. The widening of the incentive value from 1% to 3% introduces additional risk and is unlikely to encourage any meaningful actions by ANSPs. Should there have to be a requirement for an incentive scheme then we would suggest this is capped at a maximum 0.5%.



Traffic Risk

The PSOs can understand the reasons for the removal of the dead band. The STATFOR base case scenario, is the scenario where the traffic has an equal chance of being above or below forecast. ANSPs need to be able to accurately predict their revenues and with the STATFOR base case scenario the risk is too high. With the removal of the dead band, NSAs and ANSPs should be allowed the freedom to be more conservative with the traffic forecast in order to have greater confidence that accurate business planning can be achieved, but any additional revenue received, should actual traffic be higher than forecast, be mostly returned to airspace users.

The widening of the risk sharing band from 90% to 85% just increases the risk ANSPs are exposed too. It is inevitable that this risk will sought to be mitigated in other areas. The ability for NSAs to set other risk sharing keys is welcome and fits well with the stated aims of strengthening the NSAs, but the requirement to have written agreement with the airspace users is once again completely unacceptable. Indeed, since the airspace users have direct control over traffic levels, it is entirely inappropriate for them to have regulatory input. This provision could be susceptible to 'gaming' and we believe the risks and impacts have not been fully explored.

Cost Sharing

The proposals on Cost Sharing have been significantly reduced in scope for which there is no explained rationale. It is likely that ANSPs will be forced to build in additional economic buffers to take this into account. Pension costs are a particularly sensitive area, and in many cases are beyond the sole remit of the ANSP. Any changes in proposals must be carefully considered.

Network Manager

A consistent theme in our responses to the consultation process during the drafting of the proposals was the relationship between the Network Manager and the performance scheme. The NM is not a regulator, it is more akin to a service provider, whilst acting as a facilitator between ANSPs and airspace users. Therefore, it is inappropriate for it to have powers that could be considered as having regulatory oversight.

Conclusion

The PSOs are in favour of and working for an improved European ATM system with a focus on increased capacity and safety at a reasonable price. Taking into consideration both timescales for the drafting and adoption of this regulation and our judgment that the current draft will hamper the progress instead of improving the situation, the PSOs deeply regret that continuing the current RP2 regulation, is the only remaining reasonable option.